HON'BLE SRI JUSTICE A. GOPAL REDDY

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WRIT PETITION NO.7447 OF 2006

DATE:17.04.2006

Between:

City Fair Price Shop Welfare Association (MDL),

Rep. by its Mandal President Goverdhan.

..... PETITIONER

AND

The Government of A.P. rep. by its

Commissioner of Civil Supplies, A.P., Hyderabad &

Three others

.....RESPONDENTS

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HON'BLE MR JUSTICE A. GOPAL REDDY

W.P. No.7447 OF 2006

ORDER:

Petitioner invoked the jurisdiction of this court under Article 226 of the Constitution of India for issuance of a mandamus declaring Clause 5 of Circular of the first respondent in CCS.Ref.No.N1/11495/2005, dated 23.8.2005 prescribing the guidelines for bifurcating the existing fair price shops and maintaining the minimum number of cards to each fair price shop dealer, as arbitrary and illegal, and to direct the respondents to give opportunity to the members of the petitioner-association to put forth their objections etc.

Learned counsel for the petitioner submits that a notification has to be published inviting applications from the eligible candidates not less than 10 clear days prior to the date fixed for walking interview by affixing the notification at the conspicuous places. But, it is alleged that the appointment is likely to be done in contravention to the said guidelines. Clause 5 of the impugned circular, which deals with bifurcation, provides an opportunity of serving the bifurcation of cards orders to the affected dealer only after bifurcation but not before the bifurcation and hence, the impugned circular is liable to be set aside.

The Government of Andhra Pradesh in order to rationalize the bifurcation or to minimise the cards to each fair price shop dealer and to make them economically viable, issued the guidelines through the impugned circular, which would be followed whenever the existing fair price shop is bifurcated and for maintenance of minimum number of cards in Rural, Urban and Corporation areas, by ensuring that the new shop and existing shop are economically viable. Clause 5 of the impugned circular reads as under:

> "5. That, the copies of bifurcation of cards Orders shall be served on the affected dealer from whom the cards are proposed to be withdrawn, giving an opportunity to put in his grievance if any."

From the above, it is manifest that on the decision being taken for bifurcation of the existing fair price shops, an opportunity shall be given to the affected dealer before withdrawing the cards. In view of the same, the submission made by the learned counsel for the petitioner that Clause 5 provides giving an opportunity to the affected dealer only after the bifurcation and therefore, the same is arbitrary and liable, cannot be sustained for the reason that only on forming an opinion to bifurcate the existing shop and to ensure the economic viability of both the new and the existing shop, an opportunity would be provided to the dealer for withdrawing the cards in terms of the policy.

The Apex Court in **Amanulla Khan Kudeatulla Khan Pathan v. State of Gujarat** ((1999) 5 S.C.C. 612) categorically held that once the Government, as a policy decision, decide to reduce the number of cards per dealer, such decision does not confer the right, if any, of the fair price shop dealers and as such the High Court was in error to hold that they were to be given any notice prior to the decision of the State Government. In view of the same and as no statutory right has been pointed out that before taking a decision to bifurcate the existing shop the affected dealer should be provided an opportunity to put in his grievances and in the absence of any such statutory obligation on the part of the authority concerned, I see no merits in this writ petition.

Accordingly, the Writ Petition is dismissed at the admission stage. No costs.

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A. GOPAL REDDY, J

17th APRIL, 2006.

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